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Opinion Committee *State of Texas*
House of Representatives

RQ-0168-JC

RON LEWIS
STATE REPRESENTATIVE
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December 13, 1999

COMMITTEES:
CHAIRMAN
ENERGY RESOURCES
MEMBER
NATURAL RESOURCES
MEMBER
LEGISLATIVE COUNCIL

RL

The Honorable John Cornyn
Attorney General of Texas
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Dear General:

As chairman of the House Committee on Energy, I hereby request your legal opinion on whether state law allows a government body to meet with its attorney in executive session to discuss a bid on a contract.

It has been brought to my attention that during an August 23 meeting, the Port of Beaumont Commission adjourned to executive session to discuss, with its attorney, a pending contract for loading and unloading services. There were four bids made for the contract. After the closed session ended, the commissioners returned to open session and unanimously approved one of the bids for the contract without public discussion.

The Beaumont Enterprise has challenged the legality of that closed session, citing Texas Government Code 551.071, which states that a government body may not conduct a private consultation with its attorney except when seeking advice about pending or contemplated litigation, when discussing a settlement offer or when discussing a matter in which the duty of the attorney to the governmental body under State Bar rules clearly conflicts with the government code.

However, the port's attorneys cite that same section as a reason for keeping the session closed to discuss details of the bid, indicating that any consultation with an attorney about a contract may be held in executive session. In the best interests of government, I want to see this matter resolved.

You will find enclosed, a letter from Joe Larsen, representing the Enterprise, a copy of the agenda item and the minutes of the August meeting.

I know you have pledged to enforce open meetings and open records laws as well as to render opinions on such in a timely manner. I would appreciate your assistance with this matter.

Sincerely,

Ron Lewis

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enclosure